



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for an order ending the tenancy earlier than the tenancy would end if a notice to end the tenancy were given under section 47 of the Act [landlord's notice for cause].

The landlord and witness attended; however, the tenant did not attend. The landlord and witness were affirmed for the purposes of giving their testimony. The landlord and witness confirmed they were not recording the hearing.

As the tenant did not attend the hearing, service of the Application for Dispute Resolution, evidence, and Notice of Hearing (application package) to the tenant was considered.

The landlord's witness said he served the tenant with the landlord's application package on April 1, 2022, by handing her the documents in her rental unit. The service was within one day after receiving the documents from the Residential Tenancy Branch (RTB).

I accept the landlord's undisputed evidence and find that the tenant was served notice of this hearing in a manner complying with section 89(2)(a) of the Act. The hearing proceeded in the tenant's absence.

The landlord and witness were provided the opportunity to present their affirmed testimony, to refer to their documentary evidence, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the RTB Rules. However, not all details of the submissions and or arguments are reproduced here; further, only the evidence specifically referenced and relevant to the issues and findings in this matter are described in this Decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Is the landlord entitled to end this tenancy early without the requirement of a 1 Month Notice to End Tenancy?

Are the landlords entitled to an Order of possession and to recover the filing fee?

Background and Evidence

The undisputed evidence shows this tenancy began on December 1, 2021, and monthly rent is \$1,500. The rental unit is in the basement level of a home owned and occupied by the landlords and their family on the upper level.

In support of their application, the landlords submitted that the tenant or a person permitted on the residential property by the tenant has done at least one of the following:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.
- seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.
- put the landlord's property at significant risk. Or
- engaged in illegal activity that has caused or is likely to cause damage to the landlord's property.
- has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property.
- has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

In explanation, the landlord submitted that since the start of this tenancy, they have seen multiple people in and out of the rental unit at all hours of the day and night, non-stop. The landlord submitted that the neighbours have complained to her about the drug dealing in the rental unit and that she has observed the tenant and her boyfriend, who was not authorized to live in the rental unit, deal drugs.

The landlord testified that the tenant has nailed the door shut, which allows her access to the laundry room in the basement, resulting in the landlord not being able to do her laundry.

The landlord submitted that she has had to call the RCMP to report the drug dealing and the threats to her life uttered by the tenant's boyfriend. The landlord submitted that the tenant's boyfriend also threatened to burn down the house.

The landlord submitted that she has been trying for several months to end the tenancy, and has made three applications, but there have been issues with each of the applications due to not knowing how to properly file the documents.

The landlord's witness said he was a friend of the tenant's boyfriend, and did buy drugs from him at one point, when he was formerly using drugs.

The witness said he witnessed a constant flow of people in and out of the rental unit and has seen people purchase the drugs.

The witness said that he has witnessed the tenant's and boyfriend's belligerent words and threats to the landlord.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Section 56 of the Act applies and states:

Application for order ending tenancy early

56(1) A landlord may make an application for dispute resolution to request an order

- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and
 - (b) granting the landlord an order of possession in respect of the rental unit.
- (2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,
- (a) the tenant or a person permitted on the residential property by the tenant has done any of the following:
 - (i) **significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;**
 - (ii) **seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;**
 - (iii) **put the landlord's property at significant risk;**
 - (iv) engaged in illegal activity that
 - (A) **has caused or is likely to cause damage to the landlord's property,**
 - (B) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
 - (C) **has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; ...**
 - (b) **it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [*landlord's notice: cause*] to take effect.**
- (3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

[Emphasis added]

In order to establish grounds to end the tenancy early under section 56 of the Act, the landlord must not only establish that they have cause to end the tenancy, but that it would be unreasonable or unfair to require the landlords to wait for a notice to end the tenancy under section 47 of the Act to take effect. Having reviewed the undisputed testimony of the landlord, I find that the landlord has met that burden.

I find the landlord submitted sufficient evidence that there is significant drug dealing occurring in the rental unit at all hours of the day and night. I therefore find the landlord has submitted sufficient evidence that the tenant or a person permitted on the property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property and jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

I find the landlords submitted sufficient evidence that the tenant's boyfriend has uttered threats to the landlord, threatening her life and the property. I therefore find the landlord submitted sufficient evidence that the tenant or a person permitted on the property by the tenant seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.

Due to the above, I am also satisfied that it would be unreasonable and unfair to the landlord to wait for a 1 Month Notice to End Tenancy to take effect.

I therefore grant the landlord's application to end this tenancy early.

Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective not later than **two (2) days** after service on the tenant. I order the tenancy ended the date of this hearing, April 29, 2022, pursuant to sections 56 and 62(3) of the Act.

Conclusion

The landlord's application is successful.

I ordered the tenancy ended this date, April 29, 2022.

The landlord is granted an order of possession effective two (2) days after service on the tenant.

If it becomes necessary for the landlord to enforce the order of possession of the rental unit, **the tenant is cautioned that they may be liable for bailiff costs.**

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: April 29, 2022

Residential Tenancy Branch